

REMARKS

The undersigned representative would like to thank Examiner Weddle for the courtesies extended during a recent telephone conference to discuss the pending claims, and in particular clarification of the claim status of this national phase application as a result of amendments made during the international phase of this PCT application.

This third preliminary amendment cancels claims 1-34 and adds claims 35-63 to conform the claims in this application with the claims in IPAU application AU 2004291564 as reflected in the second preliminary amendment filed on November 14, 2008.

In the interest of completeness, Applicants note that a prior restriction requirement was made by Examiner Xu on December 22, 2008 based on the claims presented in the second preliminary amendment. Specifically, Examiner Xu required restriction under 35 U.S.C. 121 as follows:

Group I – Claims 1-17 and 29-30 drawn to a method;

Group II – Claims 18-23 drawn to a silica film; and

Group III – Claims 25-28 drawn to a coating.

The claims as presented in this third preliminary amendment correspond the groups above as follows:

Group I – Claims 35-51 and 62-63 drawn to a method;

Group II – Claims 52-57 drawn to a silica film; and

Group III – Claims 58-61 drawn to a coating.

Applicants respectfully request that the Examiner consider the following remarks upon consideration of any requirements under 35 U.S.C. § 121 of the pending claims.

Group II - Restriction

With respect to Group II, the examiner stated that the “special technical feature of the present invention, a silica precursor formulation as recited in the claims of Group I does not define a contribution over the prior art...” citing Tanaka et al. (US 6,291,697), a reference discovered in the international search. Applicants submit that the examiner did not properly considered the overlapping special technical features recited in claims. The claims in both Group I and Group II include the particular technical feature of “producing a silica precursor formulation having a water content of no more than 5% by volume by adding silicic acid tetramethyl ester homopolymer to a solvent; coating a substrate with the silica precursor formulation; and curing the silica precursor formulation onto the substrate in a vaporous ammoniacal environment.”

While Tanaka et al. may provide technological background for this particular technical feature, it is not particularly relevant when taken alone or in combination with other documents. See, Supplementary European Search Report submitted with the Supplemental Information Disclosure Statement filed on August 23, 2007. Moreover, Applicants submit that the method of Group I is specially adapted for producing the silica film of Group II. For these reasons, Applicants submit that the claims in Groups I and II are linked to form a single general inventive concept since there is a technical relationship between Group I and Group II that involves at least one common or corresponding special technical feature. See, MPEP 1893.03(d), 1800-209. Therefore, Applicants submit that a restriction as between Groups I and II would be improper.

Group III - Restriction

Other than to identify Group III as being drawn to a coating, the examiner failed to explain why Group III “lacks unity with each other group (i.e. why there is no single general inventive concept) specifically describing the unique special technical features in each group.” See, MPEP 1893.03(d), 1800-208 (Rev. 8, July 2008). The claims in Group III recite a coating formed by the method by the claims in Group I. Group I and Group III are therefore linked to form a single general inventive concept since there is a technical relationship therebetween that involves at least one common or corresponding special technical feature. Under these circumstances, Applicant submits that there can be no lack of unity. Furthermore, the examiner did not identify any additional search burdens since a search of the method will identify silica films formed by the method. Therefore, Applicants submit that restriction as between Groups I and III would also be improper.

Group III - Election

The examiner also identified four species of claims including (1) an anti-reflection coating, (2) an anti-fogging coating, (3) an anti-scratch coating and (4) an anti-static coating required an election of a single species. In view of the foregoing remarks responding to the restriction of Group III, Applicants submit that an election requirement is not proper since recitation of the coating as having anti-reflection, anti-fogging, anti-scratch or anti-static characteristics does not render it a separate species when the coating is formed by a common method.

If the Examiner has any questions or would like to personally discuss this application, he is invited to contact either of the undersigned attorneys at the telephone number listed below.

Respectfully submitted,

Dated: July 15, 2009

/ David A. McClaughry /
By: _____
David A. McClaughry
Reg. No. 37,885

HARNES, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

DAM/pal

14632719.1